



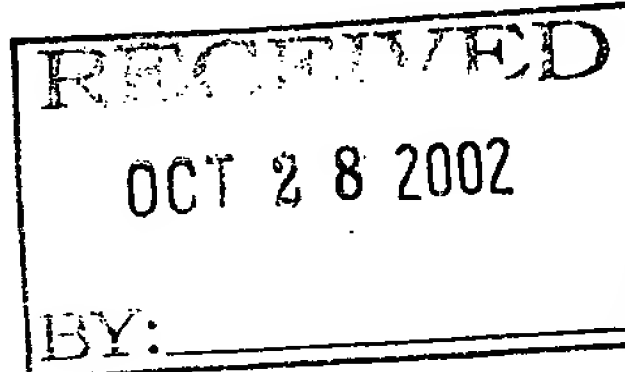
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/458,280	12/10/1999	RICHARD C. VOGEL	VAC.331. <b>A</b>	8678

30159 7590 10/21/2002

ATTN: LEGAL-MANUFACTURING  
KINETIC CONCEPTS, INC.  
P.O. BOX 659508  
SAN ANTONIO, TX 78265-9508



EXAMINER	
DEMILLE, DANTON D	
ART UNIT	PAPER NUMBER
3764	

DATE MAILED: 10/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

VAC. 331A.US

DOCKET DATE: 12-21-02  
DOCKET FOR: Respond to Final  
DOCKET BY: S O.A.

*Notice of Appeal*

# Office Action Summary

Application No.

09/458,280

Applicant(s)

VOGEL ET AL.

Examiner

Danton DeMille

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. **Claims 1-5, 10-13, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobs et al. in view of Thorn et al.**
2. Jacobs teaches a foot wrap having an inflatable bladder for applying compressive force over the lower leg and foot of a patient. Jacobs also teaches that the foot wrap can be used in combination with a wound dressing column 6, lines 4-7. Clearly the inflatable bladder of Jacobs is capable of overlapping at least a portion of the wound dressing since it is taught that the releasable securing means allows the patient to take the device off to access the wound dressing. Thorn teaches a conventional wound dressing for introducing negative pressure over any area of the patient. It would have been obvious to one of ordinary skill in the art to modify Jacobs to use the foot wrap in combination with a wound dressing as taught by Thorn in order to complete the teaching of Jacobs. The free and open arrangement of the Jacobs wrap allows free placement of the wound dressing anywhere desired or required. Regarding claim 13, Thorn teaches a layer 7 of porous material. The porous material can be of any well known design as long as it maintains the space between the skin and the second layer 8. Open celled elastic foam is just such a conventional material and an obvious provision.
3. **Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tumey et al. in view of Thorn and Jacobs et al.** Tumey teaches a foot wrap having an inflatable bladder for applying a compressive force to the patient's foot. Jacobs teaches the convention of using wound dressings in combination with inflatable foot wraps and Thorn exemplifies wound dressings that apply a negative pressure. It would have been obvious to one of ordinary skill in

the art to modify Tumey to include a wound dressing with the wrap as taught by Jacobs to be able to additionally treat wounds and to use the specific type of wound dressing as taught by Thorn as an obvious example of wound dressings. Tumey additionally teaches the convention of pressure sensors 47 to control pressurization. Tumey teaches the pressure source is intermittently operable. Thorn teaches the vacuum source can be operable to vary the negative pressure in a preprogrammed manor to provide the desired effect. The art teaches intermittent pressure application therefore providing intermittent negative pressure would have been obvious to provide the desired therapeutic effect.

#### *Response to Arguments*


4. Applicant's arguments filed 17 June 2002 have been fully considered but they are not persuasive.
5. While Jacobs teaches an inflatable bladder to normalize the forces applied, there is no claim language to define over this. It may be true that Jacobs teaches a single inflation bladder to evenly distribute the pressure applied to the limb, the claims do not exclude this added feature of Jacobs. It remains a fact that Jacobs teaches that wound dressings can be used in combination with their device. While the wound dressing of Thorn may teach a type of wound dressing that very few are in use, it is still one type of wound dressing that is well known and could be used. The inflatable bladder may apply pressure to the wound dressing however, the purpose of the porous layer 7 is to maintain the outer layer 8 in spaced relation to maintain the vacuum pressure above the wound. One would not be destroying either teaching. One is just taking the suggestion of Jacobs to use a wound dressing with the inflatable bladder and using the wound dressing of Thorn to complete the apparatus.

*Conclusion*

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

7. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

ddd  
17 October, 2002  
☎ (703) 308-3713  
Fax: (703) 305-3590  
[danton.demille@uspto.gov](mailto:danton.demille@uspto.gov)

  
Danton DeMille  
Primary Examiner  
Art Unit 3764